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*V5 Technologies, LLC, d/b/a Cobalt Data Centers*

18  
19 UNITED STATES DISTRICT COURT  
20 DISTRICT OF NEVADA

21 V5 TECHNOLOGIES, LLC, d/b/a COBALT  
DATA CENTERS,

22 Plaintiff,

23 v.

24 SWITCH, LTD., a Nevada limited company;  
25 SWITCH BUSINESS SOLUTIONS, LLC, a  
Nevada limited liability company; SWITCH  
26 COMMUNICATIONS GROUP L.L.C., a  
Nevada limited liability company; SWITCH,  
27 INC., a Nevada corporation,

28 Defendants.

Case No. 2:17-cv-02349-KJD-NJK

**Stipulation and [Proposed]  
Order Regarding ESI**

**ESI STIPULATION****INTRODUCTION**

Defendants Switch, LTD, Switch Business Solutions, LLC, Switch Communications Group, L.L.C., and Switch, Inc. (collectively, "Switch") are in the business of, among other things, operating the heart of the internet, data centers, as well as protecting the data of others. Switch has statutory, regulatory, and contractual obligations to ensure that information that could be used to compromise its mission critical services, or the business operations of its clients is appropriately safeguarded. Switch's clients include entities with highly confidential data such as governmental agencies, hospitals and medical providers, and telecommunications carriers. As a result, Switch has heightened security requirements and protocols that it must maintain and satisfy to remain in contractual and regulatory compliance, including passing certain security and data privacy audits. Such audits include Switch's SSAE-16 and SSAE-18 protocols. Switch must ensure that only certain meta data about Switch's, Switch's customers' or Switch's vendors', operations, protocols, or network is made available outside of Switch's network to avoid materially increasing the risk of data breach, terrorism, sabotage, or espionage.

Accordingly, Switch agrees to the manner of producing ESI as contemplated in the ESI Stipulation below. Switch is in the process of identifying a vendor who can comply with both the heightened security requirements and obligations imposed upon Switch by its customers and by various rules and regulations, as well as the manner of production contemplated herein. Nonetheless, Switch will produce ESI in compliance with this ESI Stipulation within a reasonable time after securing such a vendor who can properly perform its services within Switch's secure environment and under these unique circumstances.

Plaintiff's ("Cobalt") position is that none of the foregoing material is relevant to the form and manner of production of ESI set forth below. Nevertheless, in order to jointly file this ESI protocol in a timely manner, Cobalt consented to inclusion of the foregoing.

## **PRODUCTION PROTOCOL**

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2  
3 1. **Deduplication.** The producing party is only required to produce a single copy of a  
4 responsive document (i.e. TIFF or PDF) and may de-duplicate responsive ESI (based on MD5 or  
5 SHA-1 hash values at the document level) across custodians. For emails with attachments, the  
6 hash value is generated based on the parent/child document grouping. However, metadata  
7 identifying all custodians in possession of each document that is removed as a duplicate must be  
8 produced, to the extent it exists at the point of collection, in an "OTHER CUSTODIAN" field in  
9 the production load file.

10 2. **Document Identifier.** Each document must have a unique and sequential  
11 document identifier for loading and organizational purposes (e.g., CTRL00000001,  
12 CTRL00000002).

13 3. **Load Files.**  
14 a. .DAT file – A .DAT file with standard Concordance delimiters for loading  
15 metadata, text, and native files into Relativity should be produced.  
16 b. .OPT – A standard Opticon .OPT load file to link all image paths and  
17 documents breaks should be produced.

18 4. **Images.** Images should generally be provided as Black & White, Single Page,  
19 Group IV, 1-Bit TIFF files. However, if producing a document in black and white that was  
20 originally in color alters or obscures the substance of the document, then the document should be  
21 produced in color as single-page 300 DPI JPG images.

22 5. **Endorsements.** Each document should include page level branding in sequential  
23 order, consisting of a bates number in the lower right-hand corner and any confidential  
24 designation required in the lower left-hand corner.

25 6. **Extracted Text/OCR Files.**  
26 a. All documents produced should have a corresponding document level text  
27 file. The path to the text file should be included in the .DAT file in the OCR Text field.  
28

b. The name of the document level text files should reflect its corresponding Bates number (e.g., CTRL00000001.txt, CTRL00000002.txt).

7. **Embedded Files.** Embedded files are to be fully extracted, and the appropriate parent-child relationship must be maintained. Examples of embedded files include but are not limited to the following:

- a. ZIP files and other compressed file formats;
- b. Embedded PDF file formats;
- c. Embedded e-mails that exist as an attachment to an e-mail.

8. **Email Families.** All parent/child document relationships must be maintained unless otherwise agreed upon. These fields should be identified in the PRODBEGATTACH or Group Identifier field contained in the .DAT file.

9. **Metadata.** Each of the metadata and coding fields set forth in Appendix A that can be extracted shall be produced for that document. The producing party is not obligated to manually populate any of the fields in Appendix A if such fields cannot be extracted from a document, with the exception of the following: PRODBEGBATES, PRODENDBATES, PRODBEGATTACH, PRODENDATTACH, CUSTODIAN, OTHER CUSTODIAN, CONFIDENTIALITY, and REDACTED. The OTHER CUSTODIAN field should be populated by the producing party or its vendor to identify other custodians in possession of the document before deduplication was applied to the data set. With respect to electronic information whose custodian(s) is a non-individual (e.g., email vaults, shared departmental locations, SharePoint repositories, or other single instance storage solutions), the producing party shall reasonably clearly identify that non-individual custodian(s) in the CUSTODIAN and OTHER CUSTODIAN fields (e.g., "Email Vault," "Sales Department Shared Drive," etc.). The producing party shall make reasonable efforts to ensure that metadata fields automatically extracted from the documents are correct.

10. **Documents Produced in Native Format.** Due to the cost or inability of image conversion and the formatting issues commonly encountered with converting the following file types to image format, native files shall be produced for the following data types below with a

corresponding TIFF placeholder. The name of the native file should reflect its corresponding Bates number (e.g., CTRL00000001.xlsx, CTRL00000002.wav).

- a. Computer Aided Drafting (CAD) files
- b. Microsoft Access databases or other database files
- c. Sound and music files (.mp3, .wav, .ram, .ra, .mid, etc.)
- d. Video files (.3g2 .3gp .asf, .asx, .avi, .flv, .mov, .mp4, .mpg, .rm, .swf, .vob, .wmv, .etc)
- e. Microsoft Excel documents and CSV files
  - i. The Microsoft Excel document or CSV file should be formatted in the following way: expand cells, unhide any hidden rows or columns, and cells should display values not formulas.
  - ii. If a Microsoft Excel document or CSV file requires redaction, then TIFF images of the document after the redaction has been applied shall be provided and the native file and full text may be withheld. The produced file should be named for the starting bates number and the confidentiality designation.

11. **Image Placeholders.** For documents produced natively, image placeholders should include the text “DOCUMENT PRODUCED NATIVELY” and should be branded with a corresponding Bates number and any confidentiality designation required. For privileged family members, image placeholders should include the text “PRIVILEGED – WITHHELD” or contain redactions tailored to the claim of privilege.

12. **Microsoft Office, WordPerfect, and Other Standard Documents (e.g., Google Docs and PDF Documents).** MS Office files, WordPerfect, and other standard documents, such as PDF documents and the like, shall be converted to single-page TIFF or PDF images and produced consistent with the specifications herein. If the document contains comments or tracked changes, the TIFF images shall be generated to include the comments or tracked changes contained in the file.

13. **Microsoft PowerPoint and Other Presentation Files.** The producing party shall process presentations (e.g., MS PowerPoint, Google Presently) to include hidden slides and

1 speaker's notes by imaging in a way that both the slide and the speaker's notes display on the  
2 TIFF or PDF image. This paragraph is not a waiver of any party's right to request reproduction  
3 of PowerPoint and like files in color, and the parties agree to meet and confer in good faith  
4 regarding any such request.

5 14. **Redactions.** In the event that a document requires redaction, native files, full text  
6 and/or OCR, and specified metadata fields may be excluded. Metadata fields for exclusion in  
7 redacted documents include EMAIL SUBJECT, ORIGINAL FILENAME, and ORIGINAL  
8 FILEPATH. The TIFF or PDF image should use a black solid line or some other marking to  
9 show the word is clearly viewed as a redaction (e.g. a label with the word "redacted") where  
10 applicable and the REDACTED field should be populated "Yes" to indicate the document  
11 contains a redaction. For clarity, the Parties agree that given the security concerns inherent in the  
12 data center industry, including those referenced in the introduction, either party may redact  
13 "Highly Confidential Information" as that term is defined in the Protection Order.

14 15. **Password Protected Files.** The producing party shall make reasonable efforts to  
15 identify any potentially relevant ESI that is password protected or encrypted and undertake to  
16 remove those passwords in order for the documents to be searched and/or reviewed. If the  
17 producing party's efforts are unsuccessful, it shall identify the file(s) at issue and meet and confer  
18 with the receiving party to discuss next steps, if any.

19 16. **Hard Copy Documents.**

20 a. Hard copy documents shall be scanned and produced in electronic form by  
21 converting them to single-page PDF or TIFF images and producing them following the same  
22 protocol set forth herein.

23 b. Images of all file labels, file headings, and file folders associated with any  
24 hard copy document shall be produced with the images of the hard copy documents.

25 c. Document breaks for paper documents shall be based on Logical  
26 Document Determination (or "LDD"), rather than on physical document breaks.

d. The database load file shall include the following fields:  
PRODBEGBATES, PRODENDBATES, PRODBEGATTACH, PRODENDATTACH,  
CUSTODIAN, CONFIDENTIALITY, and REDACTED.

17. **Time Zone.** The time zone used for a production shall be specified as required in Appendix A.

18. **File Exchange.**

a. All data should be encrypted when transferred. Secure FTP with a password protected ZIP file or Encrypted Padlock Hard Drive/Flash Drives should be provided for all productions.

b. ZIP file passwords should be provided in a separate email or under separate cover.

Dated: December 22, 2017

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Dated: December 22, 2017

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COMMUNICATIONS GROUP L.L.C., and SWITCH,  
INC.*

**ORDER**

IT IS SO ORDERED.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2017

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Hon. Nancy J. Koppe

United States Magistrate Judge



## APPENDIX A

Field Name	Description
PRODBEGBATES	The beginning bates number of a document
PRODENDBATES	The ending bates number of a document
PRODBEGATTACH	The first bates number in the attachment range of a document family
PRODENDATTACH	The last bates number in the attachment range of a document family
CONFIDENTIALITY	The confidentiality stamp for a document
PAGE COUNT	The total number of pages for the document
MD5 HASH	128 bit 32-digit hexadecimal number used to identify duplicates during file processing
FILETYPE	The type of file the document is
FILE EXTENSION	The file extension of the document
HAS COMMENTS/TRACK CHANGES	A Yes/No field identifying comments and track changes in Microsoft office documents
CUSTODIAN	The custodian or location the data was collected from
OCR Text	OCR text
OTHER CUSTODIAN	Other custodians in possession of the document before deduplication was applied to the data set
ORIGINAL FILENAME	The name of the file
ORIGINAL FILEPATH	The path the file was stored in the normal course of business
DOC AUTHOR	The windows profile name attributed to the document
TO	The email addresses or names in the "TO" field
FROM	The email addresses or names in the "FROM" field
CC	The email addresses or names in the "CC" field
BCC	The email addresses or names in the "BCC" field
EMAIL SUBJECT	The subject line of the email
PARENT DATE (SORT DATE)	Date populated by the Sent or Received Date of an email and applied to its family members
SENT DATE	The date an email was sent
RECEIVED DATE	The date an email was received
DATE CREATED	The file system date stamp containing the original date a file was created
DATE LAST MODIFIED	The file system date stamp containing the date a file was last modified
REDACTED	A Yes/No field indicating whether the document contains redactions
TIME ZONE	The time zone which was used to process a file

**PROOF OF SERVICE**

I hereby certify that I am employed in Los Angeles, California. I am over the age of 18 and not a party to the within action. My business address is White & Case LLP, 555 South Flower Street, Suite 2700, Los Angeles, CA 90071-2433.

On December 22, 2017, I caused the foregoing document(s) to be filed via the Court's CM/ECF system, which will accomplish service on all parties of record through their counsel

I declare under penalty of perjury under the laws of the United States of America that the above is true and correct.

Executed on December 22, 2017, at Los Angeles, California.

By: s/ Catherine S. Simonsen  
Catherine S. Simonsen